

MT LEGISLATIVE HISTORY

24 pages

Chapter 451 1987

Bill H 222 S _____

Original bill & hist. ☒ C

H. Committee on Taxation

S. Committee on Taxation

Hearing Date(s) _____ C

Hearing Date(s) _____ C

2/2 ☒ C

3/28 ☒ C

_____ C

_____ C

_____ C

_____ C

Date Out 3/16 ☒ C

3/28 ☒ C

Did this bill originate in an interim committee? ☐ Yes ☐ No

Committee _____

Report _____

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of Montana

HOUSE BILL NO. 222

INTRODUCED BY THOMAS

IN THE HOUSE

JANUARY 15, 1987	INTRODUCED AND REFERRED TO COMMITTEE ON TAXATION.
MARCH 16, 1987	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
MARCH 17, 1987	PRINTING REPORT.
MARCH 18, 1987	SECOND READING, DO PASS.
MARCH 19, 1987	ENGROSSING REPORT.
	THIRD READING, PASSED. AYES, 89; NOES, 7.
	TRANSMITTED TO SENATE.

IN THE SENATE

MARCH 20, 1987	INTRODUCED AND REFERRED TO COMMITTEE ON TAXATION.
MARCH 28, 1987	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 31, 1987	SECOND READING, CONCURRED IN.
APRIL 1, 1987	THIRD READING, CONCURRED IN. AYES, 49; NOES, 0.
	RETURNED TO HOUSE.

IN THE HOUSE

APRIL 1, 1987	RECEIVED FROM SENATE.
	SENT TO ENROLLING.

1 HB BILL NO. 222
2 INTRODUCED BY Thomas
3

4 A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING CORPORATIONS
5 IN AN AFFILIATED GROUP TO FILE A CONSOLIDATED CORPORATION
6 INCOME TAX RETURN IF ALL CORPORATIONS ARE INCORPORATED IN
7 MONTANA, OWNED BY MONTANA RESIDENTS, AND FILING A
8 CONSOLIDATED FEDERAL RETURN; AMENDING SECTION 15-31-141,
9 MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A
10 RETROACTIVE APPLICABILITY DATE."
11

12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13 Section 1. Section 15-31-141, MCA, is amended to read:

14 "15-31-141. Consolidated returns -- computation and
15 procedure -- prohibition on financial institutions. (1)
16 Corporations which are affiliated may not file a
17 consolidated return unless at least 80% of all classes of
18 stock of each corporation involved is owned directly or
19 indirectly by one or more members of the affiliated group.

20 (2) Corporations may not file a consolidated return
21 unless the operation of the affiliated group constitutes a
22 unitary business and, except for a unitary business
23 operation described in subsection (2)(b), permission to file
24 a consolidated return is given by the department of revenue.
25 For purposes of this section, a "unitary business operation"

1 means one in which:

2 (a) the business operations conducted by the
3 corporations in the affiliated group are interrelated or
4 interdependent to the extent that the net income of one
5 corporation cannot reasonably be determined without
6 reference to the operations conducted by the other
7 corporations; or

8 (b) all of the corporations in the affiliated group
9 are incorporated in Montana, all shareholders of those
10 corporations are Montana residents, and those corporations
11 have filed a consolidated federal return for the tax year.

12 (3) If the conditions of subsections (1) and (2) of
13 this section are met, the department may require
14 corporations to file a consolidated return when the
15 department considers a consolidated return necessary.

16 (4) Any corporation liable to report under this
17 chapter and owning or controlling, either directly or
18 indirectly, at least 80% of all classes of stock of each
19 corporation involved may be required to make a consolidated
20 report showing the combined net income, such assets of the
21 corporation as are required for the purposes of this
22 chapter, and such other information as the department may
23 require, but excluding intercorporate stockholdings and
24 intercorporate accounts. Any corporation liable to report
25 under this chapter and owned or controlled, either directly

1 or indirectly, by another corporation may be required to
 2 make a report consolidated with the owning company, showing
 3 the combined net income, such assets of the corporation as
 4 are required for the purposes of this chapter, and such
 5 other information as the department may require, but
 6 excluding intercorporate stockholdings and intercorporate
 7 accounts. In case it shall appear to the department that any
 8 arrangement exists in such a manner as to improperly reflect
 9 the business done, the segregable assets, or the entire net
 10 income earned from business done in this state, the
 11 department is authorized and empowered to equitably adjust
 12 the tax in such manner as it may determine.

13 (5) (a) A majority of the corporation license tax
 14 collected from financial institutions is paid to local
 15 government areas in which each financial institution is
 16 located. However, consolidated returns for financial
 17 institutions do not reflect the true tax attributable to
 18 each local government. In addition, consolidated returns
 19 would permit financial institutions to offset income against
 20 losses of nonfinancial institutions, thereby distorting the
 21 true income of each financial organization.

22 (b) In accordance with subsection (5)(a), financial
 23 institutions are prohibited from filing consolidated returns
 24 under this section."

25 NEW SECTION. Section 2. Extension of authority. Any

1 existing authority of the department of revenue to make
 2 rules on the subject of the provisions of this act is
 3 extended to the provisions of this act.

4 NEW SECTION. Section 3. Effective date --
 5 applicability. (1) This act is effective on passage and
 6 approval.

7 (2) This act applies retroactively, within the meaning
 8 of 1-2-109, to taxable years beginning after December 31,
 9 1982.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB222, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act allowing corporations in an affiliated group to file a consolidated corporation income tax return if all of the corporations are incorporated in Montana, owned by Montana residents, and filing a consolidated federal return; and providing an immediate effective date and a retroactive applicability date.

ASSUMPTIONS:

N/A

FISCAL IMPACT:

The proposal would allow some Montana corporations to file consolidated tax returns to reduce their corporate license tax payments (based on experience of requests). The number of corporations who would be allowed to file consolidated returns and the impact of the proposal depends on the pattern of ownership of corporate taxpayers. Estimates of the impact would require a special study, done with the cooperation of taxpayers, to get the needed ownership information. Such a study would take weeks to complete.

It is the judgement of the audit staff that the proposal would reduce corporate tax collections. However, without the study mentioned above it is impossible to estimate the magnitude of these losses.

The retroactive applicability date of the proposal, to tax years beginning after December 31, 1982, will greatly increase the impact of the proposal in the first years it is effective. Corporations who would benefit from the proposal can be expected to apply for refunds of a portion of their previous tax payments.

TECHNICAL OR MECHANICAL DEFECTS IN PROPOSED LEGISLATION OR CONFLICTS WITH EXISTING LEGISLATION:

N/A

David L. Hunter DATE 1/13/87
DAVID L. HUNTER, BUDGET DIRECTOR
Office of Budget and Program Planning

Fred Thomas DATE 1-19-87
FRED THOMAS, PRIMARY SPONSOR
Fiscal Note for HB222, as introduced.

HB-222

50th LEGISLATIVE SESSION

TAXATION

COMMITTEE

HOUSE BILL NUMBER	ENTERED COM. DATE	DATE CON- SIDERED	OUT OF COM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMENDED DATE	DO NOT PASS AS AMENDED DATE	BE CON- CURRED IN DATE	BE NOT CON- CURRED IN DATE	BE CON- CURRED IN AMENDED DATE	BE NOT CONCURRED IN AS AMENDED DATE
156	1/12/87	2/5/87	3/6/87	tabled							
157	1/12/87	1/26/87				3/10/87					
160	1/13/87	2/5/87			2/5/87						
173	1/13/87	1/16/87	3/16/87	tabled							
182	1/14/87	1/30/87	3/16/87	tabled							
193	1/14/87	1/20/87		2/20/87							
213	1/14/87		2/6/87	tabled							
216	1/21/87	2/6/87			2/6/87						
✓ 222	1/15/87	2/2/87				3/16/87					
234	1/15/87	2/2/87		2/2/87							
245	1/16/87		2/2/87	tabled							
252	1/16/87	1/28/87		2/13/87							
255	1/16/87	1/22/87			1/27/87						
260	1/17/87	2/5/87	2/6/87	tabled							

Use a separate sheet for Senate Bills, House Bills, and Resolutions.

MINUTES OF THE MEETING
TAXATION COMMITTEE
50TH LEGISLATIVE SESSION
HOUSE OF REPRESENTATIVES

February 2, 1987

The meeting of the Taxation Committee was called to order by Chairman Ramirez on February 2, 1987, at 8 a.m. in Room 312B of the State Capitol.

ROLL CALL: All members were present with the exception of Rep. Harp, who was excused. Also present was Dave Bohyer, Researcher, Legislative Council.

CONSIDERATION OF HOUSE BILL 222: Rep. Fred Thomas, House District #62, sponsor of HB 222 said the bill would allow certain Montana corporations to file a consolidated income tax return.

PROPOSERS OF HOUSE BILL 222: Jerry Foster, DOR, provided copies of a proposed amendment, (Exhibit #1), and said he favors the bill as it removes discretionary responsibility. Mr. Foster stated he had concerns with the effective date, and that he felt the fiscal note was not sound.

Tom Harrison, Montana Society of CPA's, said he endorsed the bill, but with a concern that the language in amendment #7 be changed from "and operate exclusively" to "are not multi-state corporations".

OPPOSERS OF HOUSE BILL 222: There were no opposers of the bill.

QUESTIONS ON HOUSE BILL 222: Rep. Raney asked for an explanation of the fiscal note, concerning a statement that collections resulting from a reduction in corporate income tax collections would be impossible to figure. Rep. Thomas replied that amount should be less than \$100,000.

Rep. Williams asked Mr. Foster if he agreed with the amendments proposed by Tom Harrison. Mr. Foster replied he preferred to leave the language in the bill as it is.

Rep. Sands asked why some companies are allowed to consolidate, while others are not. Mr. Foster replied financial companies are affected most by this situation, which, in turn, reverts back to other corporations.

Rep. Sands asked what, apart from legislative grace, is the rationale for allowing consolidation of corporations. Mr. Foster replied it would allow companies to offset losses against the gains of a related company, within the corporate structure.

Rep. Patterson asked how \$100,000 in income would be lost should HB 222 Pass. Mr. Foster said, assuming one of two separate corporations operated at a profit, and the other at a loss, consolidation would allow a savings in taxes due to loss of revenue.

Chairman Ramirez asked if the two corporations would be separate legal entities, but be as one for tax purposes, Mr. Foster replied that would be so.

Chairman Ramirez asked how the proposal would work, if one of the corporations were situated in another state. Mr. Foster replied a combination statute is still under question in Montana. He added that, basically, related companies would be treated the same.

Rep. Koehnke asked if 80% of one corporation must be owned by other members of the group in order to consolidate. There was no response.

Rep. Sands asked if double taxation would be eliminated, should the bill pass. Mr. Foster replied that would be so.

Rep. Patterson asked Rep. Thomas if he felt it was right to allow one corporation to subtract the losses of another corporation. Rep. Thomas replied that he did, as long as the corporations were alike in nature.

CLOSING ON HOUSE BILL 222: Rep. Thomas advised that the action proposed in HB 222 is essentially allowed by federal tax codes, and would bring Montana into conformity.

CONSIDERATION OF HOUSE BILL 234: Rep. Red Menahan, House District #67, sponsor of HB 234, said the bill would limit to the immediate previous year, any back taxes or fees owed on a boat.

PROPOSERS OF HOUSE BILL 234: Cort Harrington, Montana County Treasurers Association, explained that boats are treated differently in some counties, and that he would like to see property such as boats, snowmobiles, and motorcycles licensed in the manner proposed in the bill.

OPPONENTS OF HOUSE BILL 234: There were no opponents of the bill.

QUESTIONS ON HOUSE BILL 234: Rep. Williams asked how it could be determined whether or not a boat was operated the previous year. Cort Harrington replied that the County Treasurers would treat boats in the same manner in which they treat motor vehicles which were not licensed the previous year.

HOUSE TAXATION COMMITTEE

Date

2-2-87

CS-30

2-2-87

EXHIBIT # 1
Feb 2, 1987
HB 222

Proposed Amendments

HB222

- 1 Page 1 Line 9
After: Date and
Delete: A
- 2 Page 1 Line 10
Delete: Retroactive
- 3 Page 1 Line 21
After: Unless
Delete: the operation of the affiliated group constitutes a
- 4 Page 1 Delete Lines 22-25
- 5 Page 2 Delete Lines 1-7
- 6 Page 2 Line 8
Delete: (b)
- 7 Page 2 Line 9
After: incorporated
Insert: and operate exclusively
- 8 Page 2 Line 9
After: Montana,
Delete: all shareholders of those
- 9 Page 2 Line 10
Delete: corporations are Montana residents,
- 10 Page 2 After Line 11
Insert: (3) The election to file consolidated is binding as long
as the affiliated group continues to file a federal con-
solidated return.
- 11 Page 2 Line 12
Delete: (3)
Insert: (4)
- 12 Page 2 Line 16
Delete: (4)
Insert: (5)

VISITORS' REGISTER

House Taxation COMMITTEE

BILL NO. HB 222

DATE 2 Feb 87

SPONSOR Thomas

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

~~FINAL COMMITTEE REPORT OF REFERRED BILLS~~
COMMITTEE--(S) TAXATION

RUN DATE.... 04/22/87

CHAIRMAN--SEN. GEORGE MCCALLUM
NORMAL SCHEDULE==> SITE: ROOM 413/415

DAYS: MON THRU FRI

TIME: 8:00 A.M.

SECRETARY-AGGIE HAMILTON

--BILL NO--	REFER DATE	HEARING DATE	CONSIDERATION DATES	COMMITTEE ACTION	REREFERRED TO COMM	DATE OUT
✓ HB0222	3/20	3/28		CONCUR		3/28
THOMAS, FRED			ALLOW CERTAIN MT. CORPS. TO FILE CONSOLIDATED CORPORATION INCOME TAX RETURN			
HB0231	2/02	3/18		CONCUR		3/18
FRITZ, HARRY			INCREASE UTILITY TAX CREDIT FOR LOANS TO CONSUMERS FOR ENERGY CONSERVATION			
HB0234	2/10	3/18	3/19			
MENAHAN, RED			LIMIT TO IMMEDIATELY PREVIOUS YEAR ANY BACK TAXES OR FEES OWED ON A BOAT			
HB0252	3/09	3/17	3/19			
HANSON, MARIAN			REDUCING COAL SEVERANCE TAX			
HB0315	2/13	3/18		ADVERSE REPORT		3/18
HOFFMAN, BOB			CHANGE ASSESSMENT DATE OF LIVESTOCK			
HB0361	2/16	3/24		CONCUR	TAXATION	3/27
RAMIREZ, JACK			DELAY PLACEMENT OF NEW VALUES ON TAX ROLLS FOR 1 YEAR AFTER REVALUATION			
HB0361	3/26			CONCUR		4/10
RAMIREZ, JACK			DELAY PLACEMENT OF NEW VALUES ON TAX ROLLS FOR 1 YEAR AFTER REVALUATION			
HB0366	3/02	3/19	3/27	TABLED 3/19		
FRITZ, HARRY			INCREASE AMOUNT OF HOMESTEAD EXEMPTION TO \$80,000 FROM \$40,000			
HB0377	3/24	3/31	4/6, 4/7, 4/8, 4/9, 4/10	CONCUR AS AMENDED		4/10
RAMIREZ, JACK			ESTABLISH A 4% RETAIL SALES AND USE TAX; REDUCE STATEWIDE PROPERTY TAX			
HB0387	2/13	3/19		CONCUR AS AMENDED		3/27
KEENAN, NANCY			REQUIRING ADDITIONAL INFORMATION IN DEPT OF REVENUE'S BIENNIAL REPORT			
HB0409	3/20	3/25		CONCUR AS AMENDED		3/27
MILES, JOAN			REVISING THE CHILD AND DEPENDENT CARE DEDUCTION FOR MONTANA INCOME TAXES			

administrative costs. He explained those estimates are based upon 1986 data for collections from July 1, 1988 to June 30, 1989.

Mr. Bucks told the Committee he has four amendments pertaining to regular tax collection dates (Exhibit #11), and said passage of SB 395 would suspend I-105. He explained an appropriations bill would cover start-up costs for a sales tax, of \$200,000, in addition to \$1.5 million in administration expenses.

OPPONENTS OF HOUSE BILL NO. 883: Gordon Morris, Montana Association of Counties, said he objected to the short notice on the hearing of HB 883, and to the distribution formula therein. He stated the measure ought to be placed upon full dollar value and no population factor, as in Beaverhead County approximately 30 percent of the property is exempt. Mr. Morris explained that Yellowstone County has one-eighth of the population of the state and one-eleventh of the tax base, and would benefit from the bill, while Beaverhead has less than 10,000 people and a 50 percent tax valuation.

QUESTIONS ON HOUSE BILL NO. 883: Chairman Ramirez asked for a dollar for dollar school equalization schedule for counties from DOR by Wednesday, March 18, 1987, for executive session.

CLOSING ON HOUSE BILL NO. 883: Rep. Williams recommended delaying executive action on the bill until it is known what will happen to the Governor's tax bill.

DISPOSITION OF HOUSE BILL NO. 222: Rep. Patterson made a motion that HB 222 DO PASS, and made a motion to approve proposed amendments (Exhibit #12).

Rep. Harp commented that one amendment would prevent multistate corporations outside Montana from consolidating returns to offset losses in the state. He stated insurance companies and financial institutions can't be involved in this.

Dan Bucks, DOR, commented there is confusion between consolidation and combination methods and that he believes the Income Tax Subcommittee is correct. He added that the proposed amendments meet DOR's and some of the industry's concerns.

The motion made by Rep. Patterson CARRIED unanimously.

Rep. Patterson made a motion that HB 222 DO PASS AS AMENDED. The motion CARRIED unanimously.

DAILY ROLL CALL

HOUSE TAXATION COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date March 16, 1987

NAME	PRESENT	ABSENT	EXCUSED
REP. RAMIREZ	✓		
REP. ASAY			✓
REP. ELLISON	✓		
REP. GILBERT	✓		
REP. HANSON	✓		
REP. HARP	✓		
REP. HARRINGTON	✓		
REP. HOFFMAN	✓		
REP. KEENAN	✓		
REP. KOEHNKE	✓		
REP. PATTERSON	✓		
REP. RANEY	✓		
REP. REAM	✓		
REP. SANDS	✓		
REP. SCHYE	✓		
REP. WILLIAMS	✓		

STANDING COMMITTEE REPORT

MARCH 16

19 57

Mr. Speaker: We, the committee on HOUSE TAXATIONreport HOUSE BILL NO. 222☒ do pass
☐ do not pass☐ be concurred in
☐ be not concurred in☒ as amended
☐ statement of intent attachedRepresentative Jack Ramirez, Chairman

Be amended as follows:

1. Page 2, line 9
Following: "incorporated"
Insert: "and operate exclusively"
Following: "Montana,"
Strike: remainder of line 9 through "residents" on line 10
Insert: "are not multistate corporations"
Strike: "those corporations" on line 10
2. Page 2, line 12
Following: line 11
Insert: "(3) The election to file a consolidated return is binding as long as the affiliated group continues to file a federal consolidated return."
3. Page 3, line 22
Strike: "(5) (a)"
Insert: "(6) (a)"
4. Page 4, line 9
~~Following: line 8~~
Strike: "1932"
Insert: "1936"

Renumber subsequent subsections

FIRST

reading copy (WHITE)
color

MONTANA STATE SENATE

TAXATION COMMITTEE

50TH LEGISLATURE

COMMITTEE MEMBERS: Senator George McCallum, Chairman
 Senator Mike Halligan, V. Chairman
 Senator Al Bishop
 Senator Bob Brown
 Senator Bruce Crippen
 Senator Dorothy Eck
 Senator Tom Hager
 Senator Les Hirsch
 Senator Ray Lybeck
 Senator Joe Mazurek
 Senator Ted Neuman
 Senator Elmer Severson

STAFF ATTORNEY: Jim Lear

COMMITTEE SECRETARY: Aggie Hamilton

BOOK: 1 of 3

INCLUSIVE DATES: January 6 - February 25, 1987

MINUTES OF THE MEETING
TAXATION COMMITTEE
MONTANA STATE SENATE

March 28, 1987

The fifty-second meeting of the Senate Taxation Committee was called to order at 8:05 A.M. on March 28, 1987 by Chairman George McCallum in Room 413/415 of the Capitol Building.

ROLL CALL: All committee members were present.

CONSIDERATION OF HB 222: Representative Thomas, House District 62, presented this bill to the committee. This bill is a consolidation of returns for state income tax filings in Montana. This is similar to federal tax codes. It allows corporations in an affiliated group to file a consolidated corporation income tax return if all corporations are incorporated in Montana, owned by Montana residents and filing a consolidated federal return. The reason that we have a situation that we should change is that people use the corporation as a way of legally limiting their liability. In a lot of ways this is another answer for the business environment in Montana because it would allow somebody to consolidate their tax filings, if they are going to have a new venture, to incorporate that venture. They would be able to consolidate the profit or loss of that new venture.

PROPOSERS: Jerry Foster, Department of Revenue, gave testimony in support of this bill. This bill, as written, will take away discrepancies with respect to consolidating returns. In addition, it will create some tax savings for the small, family affiliated corporations at a time when they can probably use it. There are some amendments that we thought would make it clearer but it is still workable the way it is.

Gary Carlson, representing the Montana Society of CPA's, gave testimony in support of this bill. There may be a technical correction needed on page 2, line 14, the numeral (a) should be inserted to show the fact that the Department of Revenue has the discretion to cause the filing of the consolidated return, but under (b) it would be at the discretion of the taxpayer as far as the ability to file the consolidated return. In his opinion this will have very narrow application in the state of Montana from the standpoint of allowing the filing of consolidated returns at the corporate level. They are

concerned with the definition "operated exclusively in the state of Montana", as amended on second reading in the House. He does not know what the word "exclusively" means. Agriculture clients take yearling steers to Iowa to be sold in the state of Montana. Did that person operate exclusively in Montana. For truckers, other states are requiring those truckers to apportion their income to other states. We can have a person who is actually a Montana truck operator, apportion his income to another state, so he is not operating exclusively in Montana. Radio/TV broadcasting companies have air waves that cover North Dakota and they receive some advertising in North Dakota, are they operating exclusively in Montana. That wording has to have some definition so we know what the rules are going to be. We support this bill with those concerns expressed.

OPPONENTS: None.

QUESTIONS FROM THE COMMITTEE: Senator Lybeck asked Jerry Foster to enlarge on the fiscal impact. The fiscal note says it is impossible to estimate the magnitude of these losses.

Jerry Foster said we think the revenue would be less than \$100,000 a year. The bill provides provisions where financial institutions would not be allowed to consolidate and that is where the bulk of the revenue loss from consolidation would be. We do not know who is eligible. Our best guess is it would be approximately \$100,000 a year.

Senator Neuman said Gary Carlson brought up some questions about a trucking company that files in several states but is based in Montana. He asked Jerry Foster to respond.

Jerry Foster said that is exactly what it says, operates exclusively in Montana. They have to have 100% of sales, payroll and property in Montana and 100% of income to Montana. A trucking company would not qualify. If a farmer hauls his cattle to Iowa, Iowa would have no jurisdiction over that sale. If you do not operate exclusively in Montana, this statute does not apply to you.

Senator Eck asked Jerry Foster if he would speak to the amendment suggested by the Department of Revenue in the House.

Jerry Foster said we had some amendments which made the bill clearer. As far as they are concerned, that language is no longer necessary.

Senator Severson said quite often we have people that take cattle to Colorado for 4 months before they are sold. Would they be exclusively in Montana.

Jerry Foster said in that particular instance, the state of Colorado would have jurisdiction over some of that income.

Senator Severson said he is sure those cattle are not taxed, as far as the Montana owner, in Colorado.

Jerry Foster said that would be true, but the corporation would be doing business in Colorado. They would have an inventory in that state. Colorado should be taking a percentage of the income. He is not saying that Colorado would be going after them, but technically they have a connection with that state.

Senator Hirsch asked if the affiliated group has to be two corporations or more.

Jerry Foster said they could be 15 corporations as long as they are owned by the parent company.

Jim Lear does not understand Gary Carlson's proposed amendment.

Gary Carlson said it should be at the discretion of the corporation as to whether they file, not that the Department has the authority to force that.

Representative Thomas closed by stating this will work the way it is, without amendments.

DISPOSITION OF HB 222: Senator Severson made a motion that HB 222 BE CONCURRED IN.

The motion carried with Senator Lybeck absent from the hearing at the time of the vote.

DISPOSITION OF HB 700: Senator Neuman made a motion that HB 700 BE CONCURRED IN.

The motion carried with Senator Lybeck absent from the hearing at the time of the vote.

ROLL CALL

TAXATION

COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date 3-28-87

NAME	PRESENT	ABSENT	EXCUSED
SENATOR CRIPPEN	✓		
SENATOR NEUMAN	✓		
SENATOR SEVERSON	✓		
SENATOR LYBECK	✓		
SENATOR HAGER	✓		
SENATOR MAZUREK	✓		
SENATOR ECK	✓		
SENATOR BROWN	✓		
SENATOR HIRSCH	✓		
SENATOR BISHOP	✓		
SENATOR HALLIGAN, VICE CHAIRMAN	✓		
SENATOR McCALLUM, CHAIRMAN	✓		

Each day attach to minutes.

DATE: March 28 1987
Senate Inquisition

DATE _____

March 28 1987

DATE: 4/4
Senate Injection

AB 222



(Please leave prepared statement with Secretary)

NAME: Larry B Carlson DATE: 3/28/87

ADDRESS: P.O. Box 1147 Helena

PHONE: 442-3540

REPRESENTING WHOM? MT Society of CPAs

APPEARING ON WHICH PROPOSAL: HB 222

DO YOU: SUPPORT? X AMEND? Consider OPPOSE?

COMMENTS:

Possible technical correction -

line 14 page 2 insert (a) behind 2

? what is the definition Exclusive?

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

STANDING COMMITTEE REPORT

March 23

19 97

MR. PRESIDENT

We, your committee on SENATE TAXATION

having had under consideration HOUSE BILL No. 222

third reading copy (blue)
color

THOMAS (SEVERSON)

**ALLOW CERTAIN MT. CORPS. TO FILE CONSOLIDATED CORPORATION
INCOME TAX RETURN**

Respectfully report as follows: That HOUSE BILL No. 222

BE CONCURRED IN

~~DO PASS~~

~~DO NOT PASS~~

SENATOR GEORGE MCCALLUM,

Chairman.

APPROVED BY COMMITTEE
ON TAXATION

HOUSE BILL NO. 222

INTRODUCED BY THOMAS

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING CORPORATIONS IN AN AFFILIATED GROUP TO FILE A CONSOLIDATED CORPORATION INCOME TAX RETURN IF ALL CORPORATIONS ARE INCORPORATED IN MONTANA, OWNED BY MONTANA RESIDENTS, AND FILING A CONSOLIDATED FEDERAL RETURN; AMENDING SECTION 15-31-141, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 15-31-141, MCA, is amended to read:

"15-31-141. Consolidated returns -- computation and procedure -- prohibition on financial institutions. (1) Corporations which are affiliated may not file a consolidated return unless at least 80% of all classes of stock of each corporation involved is owned directly or indirectly by one or more members of the affiliated group.

(2) Corporations may not file a consolidated return unless the operation of the affiliated group constitutes a unitary business and, except for a unitary business operation described in subsection (2)(b), permission to file a consolidated return is given by the department of revenue. For purposes of this section, a "unitary business operation"

means one in which:

(a) the business operations conducted by the corporations in the affiliated group are interrelated or interdependent to the extent that the net income of one corporation cannot reasonably be determined without reference to the operations conducted by the other corporations; or

(b) all of the corporations in the affiliated group are incorporated AND OPERATE EXCLUSIVELY in Montana, all shareholders of those corporations are Montana residents ARE NOT MULTISTATE CORPORATIONS, and those corporations have filed a consolidated federal return for the tax year.

(3) THE ELECTION TO FILE A CONSOLIDATED RETURN IS BINDING AS LONG AS THE AFFILIATED GROUP CONTINUES TO FILE A FEDERAL CONSOLIDATED RETURN.

(3)(4) If the conditions of subsections (1) and (2) of this section are met, the department may require corporations to file a consolidated return when the department considers a consolidated return necessary.

(4)(5) Any corporation liable to report under this chapter and owning or controlling, either directly or indirectly, at least 80% of all classes of stock of each corporation involved may be required to make a consolidated report showing the combined net income, such assets of the corporation as are required for the purposes of this

1 chapter, and such other information as the department may
 2 require, but excluding intercorporate stockholdings and
 3 intercorporate accounts. Any corporation liable to report
 4 under this chapter and owned or controlled, either directly
 5 or indirectly, by another corporation may be required to
 6 make a report consolidated with the owning company, showing
 7 the combined net income, such assets of the corporation as
 8 are required for the purposes of this chapter, and such
 9 other information as the department may require, but
 10 excluding intercorporate stockholdings and intercorporate
 11 accounts. In case it shall appear to the department that any
 12 arrangement exists in such a manner as to improperly reflect
 13 the business done, the segregable assets, or the entire net
 14 income earned from business done in this state, the
 15 department is authorized and empowered to equitably adjust
 16 the tax in such manner as it may determine.

17 ~~{5}~~(6) (a) A majority of the corporation license tax
 18 collected from financial institutions is paid to local
 19 government areas in which each financial institution is
 20 located. However, consolidated returns for financial
 21 institutions do not reflect the true tax attributable to
 22 each local government. In addition, consolidated returns
 23 would permit financial institutions to offset income against
 24 losses of nonfinancial institutions, thereby distorting the
 25 true income of each financial organization.

1 (b) In accordance with subsection ~~{5}~~(a) (6)(A),
 2 financial institutions are prohibited from filing
 3 consolidated returns under this section."

4 NEW SECTION. Section 2. Extension of authority. Any
 5 existing authority of the department of revenue to make
 6 rules on the subject of the provisions of this act is
 7 extended to the provisions of this act.

8 NEW SECTION. Section 3. Effective date --
 9 applicability. (1) This act is effective on passage and
 10 approval.

11 (2) This act applies retroactively, within the meaning
 12 of 1-2-109, to taxable years beginning after December 31,
 13 1982 1986.

-End-